

## GENERAL TERMS AND CONDITIONS

of Trotec Laser GmbH<sup>1</sup>

### 1. General

1.1. These general terms and conditions ("GTC") apply to every contract ("Contract") that is concluded between Trotec Laser GmbH ("Trotec") and the contractual partner ("Customer"), excluding any business conditions of Customer, unless the contractual parties have expressly agreed otherwise in writing. Hereinafter, the customer and Trotec are jointly referred to as "Parties".

1.2. These GTC apply exclusively and only to transactions with business enterprises; transactions that cannot be assigned to a professional or commercial activity ("consumer transactions") are expressly excluded from the scope of these GTC. The Customer expressly declares to be an entrepreneur and that business deals are made exclusively in connection with their enterprise. If the Customer is not an entrepreneur, this results in an error in their person.

1.3. Contracts can only be concluded under these GTC. Deviating, conflicting, restrictive or supplementary terms and conditions and regulations of the Customer must be expressly approved by Trotec in writing in order that they become part of the Contract in individual cases. In particular, acts of contract fulfilment by Trotec do not constitute consent to any conditions that deviate from these GTC.

### 2. Conclusion of Contract

2.1. The Contract is concluded when the Customer places an order and Trotec accepts the order.

2.2. The order is accepted when Trotec confirms it in writing (possibly by e-mail) or sends the corresponding delivery to the Customer. If provided for certain products, Trotec can send an automated, electronic order confirmation. Acceptance does not require a signature in any case.

2.3. In the event that Trotec submits an offer, it is always non-binding, subject to change and revocable.

2.4. The information contained in catalogues, brochures and the like, as well as other written or oral statements, is only relevant if it is expressly referred to in the order and in the order confirmation; otherwise, such information is deemed to be an invitation to submit an offer. Trotec is entitled to reject such orders without further justification.

2.5. With the exception of the Trotec web shop, the Customer can submit an order in writing, by phone or – if provided for certain products – electronically.

2.6. Based on European measures in the fight against money laundering and the financing of terrorism, Trotec reserves the right to initiate a know-your-customer process.

### 3. Prices and Terms of Payment, Offsetting and Assignment

3.1. The prices are from the place of fulfilment, excluding packaging, loading and VAT. If fees, taxes or other charges are levied in relation to the delivery, they shall be borne by the Customer. If delivery to the final destination is agreed, this and any transport insurance requested by the Customer will be charged separately. The packaging will only be taken back by express agreement.

3.2. Unless expressly agreed otherwise in writing, payment must be made within 7 (seven) days of the invoice date, exempt from charges and without deduction. Trotec is also entitled to make the acceptance of an order dependent on the provision of a security deposit or advance payment (e.g. deposit, down payment, bank guarantee, etc.), in particular, but not exclusively, if Trotec becomes aware of circumstances relating to the Customer's economic situation, through which Trotec is not or no longer appears to be sufficiently secured for the fulfilment of its claims, or if the Customer is in default of payment.

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<sup>1</sup> For online transactions, separate terms and conditions apply, which can be found on the Trotec homepage.

- 3.3. In order to settle the invoice, payments must be made by bank transfer to the specified Trotec bank account or – if provided for certain products – by credit card.
- 3.4. If payment in instalments is agreed, the entire outstanding amount will be due if even one instalment is not paid.
- 3.5. Cheques and bills of exchange are only accepted by special agreement and only on account of payment, not in lieu of payment. Cheques and bills of exchange are only valid as payment once they have been finally and irrevocably cashed, namely on the value date on which they are credited to Trotec by the bank. Trotec can refuse offered payments by cheque or bill of exchange without giving reasons.
- 3.6. If a payment term is exceeded, the Customer is in default without the need for a special notification from Trotec. Unless expressly agreed otherwise in writing, the Customer must pay default interest of 8% above the base rate in the event of default in payment of amounts due. EUR 40.00 will be charged for the first reminder. The extrajudicial dunning and collection charges including the involvement of a legal advisor or a debt collection agency must be borne by the Customer.
- 3.7. In the event that the Customer is in default of payment, Trotec is entitled, even after accepting the order and without setting a grace period, to refuse the agreed (partial) service or the (partial) delivery until full payment has been made.
- 3.8. The enforcement of counterclaims by offsetting or by exercising rights of retention by the Customer is excluded, unless the counterclaim has been legally established or is expressly recognised by Trotec.
- 3.9. Under no circumstances is the Customer authorised to assign a claim to which the Customer is entitled against Trotec to a third party.
- 3.10. Any cost estimates or price estimates are created to the best of Trotec's knowledge, but their correctness cannot be guaranteed. If there is an increase in costs after the order has been placed, Trotec shall immediately notify the Customer of this. If the costs are exceeded by up to 15%, these costs can be invoiced without further ado. If the costs are exceeded by more than 15%, the Parties shall enter into renewed price negotiations with the aim of agreeing an amicable price adjustment.

## **4. Transfer of Risk and Place of Fulfillment**

- 4.1. Shipping is always at the expense and risk of the Customer (FCA Freilinger Straße 99, A-4614 Marchtrenk, Incoterms 2020).
- 4.2. Use and risk are transferred to the Customer when the delivery is dispatched from the place of fulfilment. This also applies if it is a partial delivery, if the delivery takes place as part of an assembly or if the transport is carried out or organised and managed by Trotec.
- 4.3. The place of fulfilment for delivery and payment is Trotec's place of business, even if the handover takes place at a different location as agreed.

## **5. Delivery, Delay in Acceptance and Delivery**

- 5.1. As a special customer service, Trotec offers to organise the transport on behalf of the Customer, at the Customer's expense and risk. Unless otherwise agreed in detail, the delivery and mode of delivery take place exclusively at the discretion of Trotec.
- 5.2. Trotec shall only bear the costs of transport packaging. Additional costs, such as insurance costs, special packaging, additional costs for individual shipments, freight, etc., are exclusively borne by the Customer.
- 5.3. The agreed delivery period begins on the date of the written or electronic order confirmation by Trotec. However, it is suspended while and until all details of the execution are clarified (e.g. all commercial and technical questions, provision of the necessary official certificates or approvals by the Customer, payment of an agreed deposit or advance payment) or, in the case of finishing measures to be carried out by Trotec, until the fault-free primary material arrives.

5.4. The delivery deadline is deemed to have been met with the timely notification of readiness for shipment. Goods ready for delivery must be picked up immediately. Delivery periods and dates are always subject to change due to possible bottlenecks in production capacities or – carefully selected – upstream suppliers.

5.5. If unforeseeable circumstances or circumstances independent of the intention of a Party occur, such as all cases of force majeure, which hinder compliance with the agreed delivery period, this shall in any case be extended by the duration of these circumstances; this includes natural disasters, armed conflicts, official interventions and bans, delayed transport and customs clearance, transport damage, shortage of energy and raw materials, labour disputes (in particular strikes and industrial disputes), epidemics, pandemics and the failure of a major supplier that is difficult to replace. The aforementioned circumstances also entitle the delivery period to be extended if they occur with suppliers.

5.6. Trotec is entitled to make partial and advance deliveries.

5.7. The amount of compensation for any damage to the Customer caused by a delay for which Trotec is responsible and which has to be specifically proven is limited to 0.5% for each completed week of delay, but not more than 3% of the value of that part of the overall delivery that cannot be used on time or in accordance with the Contract as a result of the delay.

5.8. If, in the event of a partial delay, a loss of interest does not exist with regard to the entire Contract, but only with regard to the remaining part, the Customer cannot withdraw from the entire Contract, but rather reduce their counter-performance in the ratio of the outstanding partial performance to the overall performance.

5.9. Further claims relating to delay are excluded.

5.10. If the shipment is delayed at the Customer's request or due to circumstances for which Trotec is not responsible, the Customer shall be charged for the costs incurred through storage, beginning one month after notification of readiness for shipment, but at least 1.5% of the invoice amount for storage on the Trotec premises for each month or part thereof.

5.11. If the Customer is in default of acceptance or if the Customer violates its duty to cooperate and the Customer is therefore responsible for the circumstances of the delay in delivery, Trotec is entitled to demand compensation for the damage incurred, including any additional expenses. In this case, the risk of price and performance as well as the risk of accidental loss or accidental deterioration of the object of purchase are already transferred to the Customer when the notification of readiness for shipment is sent by Trotec.

## **6. Delivery to Third Parties**

6.1. If, within the scope of an order the Customer has placed, the Customer wishes for the delivery in question or parts thereof to be delivered and invoiced to third parties (e.g. Customer subsidiary, sales partner, etc.), the Customer is still jointly and severally liable as a contractual partner in addition to the third party. Trotec is also entitled to separately invoice any additional costs for packaging and transport.

6.2. The Customer must disclose his economic connection to the third party.

6.3. In the event that the goods delivered by Trotec are transferred or sold to third parties, the Customer cannot transfer rights such as installation, maintenance, etc. without the prior consent of Trotec.

## **7. Call Orders**

7.1. In the case of call orders, Trotec is entitled to procure the material for the entire order and to produce the entire order quantity immediately. Therefore, any change requests by the Customer cannot be taken into account once the order has been placed. In addition, Trotec has the right to make orders that have not been called up on time due immediately, subject to a grace period of 14 days. Call orders are considered called at the latest one year after the date of the order confirmation.

## **8. Warranty, Notifications of Defects**

8.1. Trotec warrants that the goods are free from material defects, manufacturing or assembly defects at the time of delivery.

8.2. The warranty period is generally 12 months and begins with the transfer of risk. Individual products may be subject to a shorter warranty period.

8.3. No warranty is provided for insignificant defects, regardless of whether they can be remedied or repaired.

8.4. Obvious and hidden defects must be reported as soon as they are detected, but no later than 14 days. Notifications of defects must always be made in writing and must be specified. If the Customer fails to notify us in time, the goods are considered approved.

8.5. The rejected goods must be properly stored and kept available until the matter has been clarified. Alternatively, the rejected goods can be returned at the expense and risk of the Customer after consultation with Trotec. If the complaint is justified, these costs will be reimbursed by Trotec. Warranty claims expire six months after written rejection by Trotec.

8.6. The Customer can only invoke the warranty if they immediately notify Trotec in writing and provide proof of the defects that have occurred, including a detailed description of the same. The Customer must always prove that the defect existed at the time of delivery. If there is a defect that is subject to warranty, Trotec can choose between:

- 8.6.1. repairing the defective goods on the premises;
- 8.6.2. having the defective goods or defective parts returned for the purpose of repair;
- 8.6.3. replacing the defective parts of the goods;
- 8.6.4. replacing the defective goods;
- 8.6.5. offering a reasonable price reduction.

8.7. During the warranty period, the Customer is entitled to restoration of the contractual condition free of charge. Trotec must bear the necessary costs of repair and replacement, in particular shipping, labour and material costs.

8.8. Under no circumstances does Trotec provide warranty if changes to the goods were made by the Customer or a third party without authorisation. Likewise, in so far and whenever the Customer does not use original parts from Trotec, parts recommended by Trotec or verifiably equivalent third-party products, claims for damages of any kind are excluded.

8.9. Furthermore, Trotec does not warrant and is not liable for any defects and the lack of warranted specifications, features and possible uses if the cause for this lies in the documents and materials made available to Trotec by the Customer (including, for example, design plans).

8.10. The legal presumption of deficiency in § 924 Austrian General Civil Code does not apply. Likewise, the provisions of § 933b Austrian General Civil Code on special recourse are excluded.

8.11. The rectification of defects does not lead to an extension of the original warranty period.

## **9. Custom-made Products and Minimum Purchase Quantities**

9.1. adhesive films, etc.), the Customer cannot return or exchange them.

9.2. All deliveries of panel products are subject to a minimum purchase quantity of whole panels. In the case of cuts, they can only be returned or exchanged with the express consent of Trotec and only if the cut panels are returned to Trotec complete (e.g. 4/4), undamaged and unprocessed.

## 10. Compensation and Liability, Limitation of Liability

10.1. With the exception of personal injury and to the extent permitted by law, Trotec is only liable for all direct damage incurred by the Customer in connection with the delivery and performance in the event of wilful intent and gross negligence. Trotec's liability for slight negligence is excluded. The Customer must prove the existence of gross negligence and wilful intent – as far as this is legally permissible. Unless otherwise stipulated by law, Trotec is only liable up to the amount of the respective delivery or order total, except for deliberate action.

10.2. In any case, Trotec's liability for collateral and indirect damage, particularly lost profit or consequential damage due to defects or claims by third parties, is completely excluded. Trotec is also not liable to third parties.

10.3. Liability for damage caused by delay is, in any case, limited in accordance with point 5.7.

10.4. The instructions given by Trotec, in particular regarding the use, maintenance, storage and care of the delivered goods, must always be followed.

10.5. If the instructions from Trotec or the respectively applicable regulations (e.g. law, official notification, Austrian standard) for the use, maintenance, storage and care of the delivered goods are disregarded, Trotec's liability is excluded as far as this is legally permissible.

10.6. All claims for damages by the Customer expire no later than three years from the occurrence of the damage.

10.7. For all work relating to the installation, commissioning, set-up, operation, changes to operating conditions and modes of operation, maintenance, inspection and repair of a laser system, the instructions for use and, in particular, safety instructions must be followed. In addition, instructions given by Trotec specialist personnel must be followed. If these instructions are violated or not fully complied with, Trotec's specialist personnel have the right to suspend or stop work completely for safety reasons at the Customer's expense. Trotec is entitled to offset all costs arising from this (such as flat-rate travel expenses, the specific time required by specialist personnel). Trotec cannot be made liable for any damage resulting from such a suspension or cancellation of the required work.

10.8. In the event of non-compliance with any operating and safety instructions or other instructions given by Trotec or the official approval requirements, any compensation on the part of Trotec is excluded.

10.9. Instead of warranty claims, compensation for non-performance cannot be asserted, unless this is contrary to mandatory law.

10.10. If contractual penalties have been agreed, further claims by the Customer from the respective title are excluded.

## 11. Reservation of Title, Extended Reservation of Title

11.1. The goods remain the property of Trotec ("reserved goods") until they have been paid for in full (including interest and charges).

11.2. Trotec retains ownership even if the item is permanently connected to or installed in the Customer's property. If the item is inseparable from the property, this will result in joint ownership.

11.3. The Customer hereby assigns their claim from the resale of reserved goods to Trotec to secure their claims, even if the goods have been processed, transformed or mixed, and undertakes to make a corresponding note in their books or invoices. Upon request, the Customer must inform Trotec of the assigned claim and its debtors and provide all information and documents required for the collection of claims and notify the third party debtor of the assignment. In the event of seizure or other claims, the Customer is obliged to point out Trotec's right of ownership and to notify them immediately.

11.4. Pledging or assignment as security of the goods delivered by Trotec or an assignment of claims from the resale of these goods to third parties is not permitted.

## **12. Own and Third-party Copyright, Intellectual Property**

12.1. Trotec reserves all industrial property rights and intellectual property rights, in particular to its products, software, manufacturing processes, user manuals, technical documents, catalogues, brochures, drawings, etc.

12.2. The Customer is not entitled to change the appearance of the goods. Furthermore, the Customer is not entitled to amend the brands or other trademarks of Trotec, to detach them from the goods, packaging or accompanying documents or to use them.

12.3. For goods that are designed by the Customer or manufactured by Trotec according to the Customer's specifications, the Customer guarantees freedom from third party rights or that the Customer has all necessary rights, patents, designs or other intellectual property rights. The same applies to all materials (for example, design plans) that the Customer sends to Trotec.

12.4. The Customer must fully support Trotec in the event of a claim or legal action by third parties who claim that their rights have been violated and indemnify Trotec in full.

12.5. If, in the course of the provision of services by Trotec, doubts arise as to the existence of the necessary rights of the Customer and the Customer is not able to prove the rights, Trotec is entitled to cancel the provision of services and refuse delivery. The Customer must reimburse Trotec for costs and expenses incurred up to this point in time.

12.6. Trotec grants the Customer a non-exclusive and non-transferable right of use to any software delivered in connection with the goods, insofar as this is absolutely necessary for the operation of the delivered goods.

## **13. Confidentiality, Data Protection**

13.1. If the Parties exchange confidential information or personal data that is subject to national or European data protection regulations, they must conclude separate agreements.

13.2. Trotec is entitled to save, send, revise and delete personal data of the Customer in the course of business transactions, insofar as this is necessary to fulfil the contractual relationship. Trotec will comply with the necessary data security measures and confidentiality obligations according to §§ 14f Data Protection Act or ensure compliance with them. Separately concluded confidentiality agreements remain unaffected. Any questions about data protection should be directed to [data-protection@trogroup.com](mailto:data-protection@trogroup.com).

## **14. Applicable Law, Place of Jurisdiction**

14.1. Only the substantive law of the Republic of Austria shall apply to the Contract, excluding the conflict rules and the UN sales law. This also applies to the question of conclusion of the Contract and the legal consequences of its aftermath.

14.2. The Parties will endeavour to amicably resolve any disputes arising from or about the implementation of the Contract. If an amicable agreement cannot be reached, all disputes or claims that arise from or in connection with the Contract, including disputes about its validity, infringement, dissolution or nullity, shall be decided by the court responsible for 4600 Wels (Austria) (place of jurisdiction). Regardless of this, however, Trotec optionally has the right to sue the Customer in their place of business.

## **15. Final Provisions**

15.1 Should individual provisions of the Contract or these GTC be or become ineffective, the effectiveness of the remaining provisions shall not be affected. The ineffective provision shall be replaced by a valid one that comes as close as possible to the intended goal.

15.2 The Customer agrees that Trotec may transfer the contractual relationship as a whole to another company that is directly or indirectly affiliated with Trotec. From the written notification, the affiliated company assumes all obligations and claims arising from this legal relationship and assumes all design rights and other rights.

15.3 The Customer is not entitled, without a related written (license) agreement from Trotec to use on its products, announcements, advertising and business documents etc., the company name or part of the Trotec company name or any other reference to the Trotec company name or affiliated companies.

15.4 Amendments and additions to the Contract or these GTC are only effective if they are recorded in writing, including by e-mail. This requirement of form also applies to the amendment of this written requirement of form.

15.5 Separately concluded agreements take precedence over these GTC to the extent that they contradict them. Unaffected clauses of these terms and conditions remain in effect.